

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
) Case No. 4:23-cr-0003-SLG
 JUNIOR GUFATSI TULALI,)
)
 Defendant.)
 _____)

TRANSCRIPT OF ARRAIGNMENT ON INDICTMENT/
DETENTION HEARING
BEFORE THE HONORABLE SCOTT A. ORAVEC, MAGISTRATE JUDGE
Wednesday - June 21, 2023
2:04 p.m. - 2:18 p.m.
Anchorage, Alaska

FOR THE GOVERNMENT:

Office of the United States Attorney
BY: ALANA B. WEBER
222 West 7th Avenue, RM 253, #9
Anchorage, Alaska 99513
907-271-2344

FOR THE DEFENDANT:

Camiel & Chaney, P.S.
BY: PETER CAMIEL
2800 First Avenue, Suite 309
Seattle, Washington 98121
206-817-0778

Clerk in Attendance: Irma Hernandez
Probation Officer: Kyle Mansfield

STACY M. BALDWIN
Realtime Certified Reporter
Federal Official Court Reporter

222 West 7th Avenue, #4
Anchorage, Alaska 99513
Transcript Produced from the Digital Recording

1 (Call to Order of the Court at 2:04 p.m.)

2 DEPUTY CLERK: All rise. His Honor, the Court,
3 the United States District Court for the District of
4 Alaska is now in session. The Honorable Scott A. Oravec
5 presiding. Please be seated.

6 Your Honor, we're on record in Case No.
7 4:23-cr-0003-SLG, *United States of America versus Junior*
8 *Gufatsi Tulali*.

9 Counsel, please identify yourself for the
10 record.

11 MS. WEBER: Good afternoon. Alana Weber on
12 behalf of the United States.

13 THE COURT: Good afternoon.

14 MR. CAMIEL: Good afternoon, Your Honor. Peter
15 Camiel representing Mr. Tulali, who's seated to my left.

16 THE COURT: Good afternoon. Thank you.

17 And, Mr. Tulali, is that the correct way to
18 pronounce your last name?

19 THE DEFENDANT: That is correct.

20 THE COURT: All right. Good afternoon, sir.

21 THE DEFENDANT: Good afternoon.

22 THE COURT: All right. This is the time we
23 have for an arraignment. And, sir, you should have in
24 front of you, I think you have a copy of the indictment.
25 That's the charging document in the case. Your name is

1 listed on the left-hand side there. Is your name
2 spelled correctly on that document?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. Thank you.

5 This is an initial proceeding. We're going to
6 talk about some of the rights that you have, talk about
7 some future dates, Counsel.

8 So, first, you do have the right to remain
9 silent. You are not required to make a statement. If
10 you have made a statement, you need say no more. If you
11 decide to make a statement you may stop at any time.
12 Please understand this proceeding is recorded and any
13 statements made could be used against you later in
14 trial.

15 Now you also have the right to be represented
16 by an attorney. And if you wish, you have the right to
17 consult with your attorney before entering a plea. If
18 you can't afford an attorney, you may be entitled to
19 have the court pay some or all of the attorneys' cost.
20 In order to do that I would need to get some of your
21 financial information.

22 I see that I have a one-page financial
23 affidavit from you. It looks like -- it looks like you
24 signed this document; is that correct?

25 THE DEFENDANT: That is correct.

1 THE COURT: All right. Thank you. I'm going
2 to go ahead and take a look at that now.

3 All right. Thank you. Looking at the
4 financial affidavit, I do see that you do have
5 employment and that you are receiving monthly income,
6 but you do have liabilities listed here, monthly
7 expenses. And so the Court is going to find you
8 eligible for the assistance of court-appointed counsel.
9 I am required to resolve any doubt in your favor, and so
10 I will do that.

11 And, Mr. Camiel, are you available to accept
12 this appointment?

13 MR. CAMIEL: I am, Your Honor.

14 THE COURT: Okay. Very well. And, Mr. Camiel,
15 are you requesting nunc pro tunc appointment at all
16 or --

17 MR. CAMIEL: Yes.

18 THE COURT: Go ahead. And when would that be
19 to?

20 MR. CAMIEL: Your Honor, I will have to advise
21 the Court that I was appointed right after Mr. Tulali
22 was indicted. I believe on the day after he was
23 indicted. He was indicted January 19th of this year. I
24 believe I was appointed the next day.

25 THE COURT: Okay. And so January 20th?

1 MR. CAMIEL: Yes.

2 THE COURT: Okay. All right. I will make your
3 appointment nunc pro tunc to January 20th, 2023. And if
4 you need to change that, just let the Court know. Okay?

5 MR. CAMIEL: Thank you.

6 THE COURT: All right. Thank you.

7 And I am finding you eligible for the
8 assistance of court-appointed counsel, and I will
9 appoint Mr. Camiel -- he's one of our highly qualified
10 CJA counsel -- to assist you.

11 I do need to let you know, if any of the
12 information on that form should change, you do have a
13 duty to let the Court know that. Do you understand
14 that?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. Thank you.

17 So now what I'm going to do is turn back to the
18 charging document, and there is Count 1 listed. Then
19 there are aggravated circumstances listed and an
20 enhanced statutory penalty. I'm going to go over that
21 now.

22 Between on or about October 13, 2020, and
23 October 17, 2020, within the District of Alaska and
24 elsewhere, you did knowingly and intentionally
25 distribute a controlled substance, and that was the

1 chemical name for fentanyl, and the following death
2 resulted -- there was a death that resulted from that --
3 distribution.

4 And that is that between on or about
5 October 13th and October 17th of 2020, that you
6 knowingly and intentionally distributed the above-listed
7 fentanyl to another person. That was on or about
8 October 28th, 2020. The use of the above-listed
9 fentanyl resulted in the overdose death of a person
10 named -- by the initials J.L., violating 21 United
11 States Code Section 841(a)(1), (b)(1)(C).

12 There's an enhanced statutory penalty
13 allegation that states before you committed the offense
14 charged in Count 1, that you had a final conviction for
15 a serious drug felony, and that was possession with
16 intent to distribute cocaine base, violating 21 United
17 States Code 841(a)(1), for which you served a term of
18 imprisonment of 12 -- of more than 12 months and for
19 which your release from such imprisonment was within
20 15 years of the commencement of the offenses charged in
21 Count 1. And that's pursuant to 21 United States Code
22 (b)(1)(A).

23 Now what I'm going to do is ask the prosecutor
24 if you could please state the maximum penalty and the
25 mandatory minimums for that count.

1 MS. WEBER: Your Honor, the minimum and maximum
2 is life imprisonment, with a \$2 million fine, as well as
3 a \$100 special assessment.

4 THE COURT: Okay. Thank you.

5 And, Mr. Camiel, are you prepared to enter a
6 plea today?

7 MR. CAMIEL: Yes, Your Honor. Not guilty.

8 THE COURT: All right. Thank you. All right.
9 So entered.

10 Mr. Tulali, counsel just entered a plea of not
11 guilty for you to this allegation. So what I'm going to
12 do is talk about some future dates right now.

13 Now this is a Fairbanks case that will go
14 before -- it will be assigned to Judge Beistline.

15 And, Counsel, as this is being assigned to
16 Judge Beistline, I was going to order automatic Rule 16
17 discovery within 14 days from today.

18 Government, do you see any difficulty providing
19 that within 14 days from today?

20 MS. WEBER: No, Your Honor.

21 THE COURT: Okay. I was not going to set -- I
22 know some of the district judges have been having their
23 magistrate judges set discovery conferences. I was not
24 anticipating doing that, unless you have a specific need
25 for one.

1 Counsel, do you see that one is needed here?

2 MS. WEBER: I believe it's fairly
3 straightforward.

4 THE COURT: Okay.

5 MS. WEBER: However, if counsel does want to
6 meet, I'm more than happy to discuss --

7 THE COURT: Well, there are certain
8 requirements that you meet and confer amongst yourself.
9 But this is actually where you come back into the court.
10 I know that some of the magistrate judges are conducting
11 a new discovery conference on the record with the
12 parties. Again, I'm not going to do that here. I'll
13 just set discovery due 14 days from today.

14 Certainly, Counsel, if you have disagreement on
15 discovery, please follow our pretrial orders and you can
16 file notice to the Court. That way we can get involved
17 earlier rather than later. I appreciate that.

18 And then, the next issue is I do have the
19 standard final pretrial conference and trial scheduling
20 dates, but I also have a date before Judge Beistline for
21 a trial scheduling conference.

22 Now I do have a -- it looks like here, I do
23 have a written Speedy Trial Act waiver. And it looks
24 like -- Mr. Tulali, did you have an opportunity to sign
25 that document?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right. And did you have an
3 opportunity to go over this document with your attorney?

4 THE DEFENDANT: Yes.

5 THE COURT: And did he answer any questions you
6 had?

7 THE DEFENDANT: Yes.

8 THE COURT: Okay. So, just very briefly, you
9 do understand that the Speedy Trial Act does apply to
10 this case, but you can agree to certain exclusions from
11 that -- from the 70-day trial period. And those might
12 be in order to allow your attorney a reasonable period
13 of time necessary for effective preparation and
14 representation, including reviewing discovery and
15 evidence in the case, conducting independent
16 investigation, researching potential pretrial motions,
17 validity options for potentially pretrial resolutions,
18 such as plea bargain and/or preparing for trial, if
19 there is no plea bargain and this matter does go to
20 trial.

21 No -- it states that you are agreeing to
22 exclude time from this date up to the trial setting
23 conference; is that correct?

24 THE DEFENDANT: That's correct.

25 THE COURT: Okay. Very well.

1 So I will state that based on the information I
2 have here, it does appear that the defense is requesting
3 a continuance of the proceedings from today to the trial
4 scheduling conference with the district judge, and that
5 is currently set for August 11th, 2023. Again,
6 August 11th at 10:00 a.m. That's before
7 Judge Beistline. Again, August 11th at 10:00 a.m.

8 And it does appear that the defendant is
9 willing to waive time under Speedy Trial Act between now
10 and that August 11th date.

11 I am finding that failure to grant such a
12 continuance would result in a miscarriage of justice.
13 It does appear that deal -- if I were to deny that
14 continuance, it would deny counsel for the defendant the
15 reasonable time necessary for effective preparation,
16 considering the exercise of due diligence. And I am
17 therefore finding that the ends of justice are served by
18 granting a continuance to the date of the trial
19 scheduling conference and they outweigh the best
20 interest of the public and the defendant in a speedy
21 trial.

22 As the next date in this case before
23 Judge Beistline is on the 11th, the motions deadline in
24 this case is August 18th. And, of course, if you have
25 any request for continuances of that or extensions of

1 time, you can ask Judge Beistline for that and he can
2 take that up at that time.

3 Counsel, any further requests then on any
4 items, additional dates, deadlines? Government?

5 MS. WEBER: None from the government.

6 THE COURT: Mr. Camiel?

7 MR. CAMIEL: No.

8 THE COURT: All right. Thank you.

9 And lastly, I will state under Criminal Rule 5F
10 the government is ordered to comply with its disclosure
11 obligations under *Brady v. Maryland* and related cases.
12 Failure to do so may result in sanctions. A written
13 order will follow.

14 DEPUTY CLERK: Your Honor, can we go over the
15 enhanced statutory? (Indiscernible.)

16 THE COURT: Yes. In terms of -- I did read it
17 over, yes. He was advised of it, yes.

18 DEPUTY CLERK: Okay.

19 THE COURT: Thank you.

20 All right. Regarding release or detention
21 before trial, this Court is responsible to act to ensure
22 that you will make future court appearances and
23 determine whether or not you present a danger to the
24 community or any particular person. Now to help me in
25 my determination, I will be considering the information

1 in the pretrial services report.

2 Mr. Camiel, have you been provided this
3 information?

4 MR. CAMIEL: Your Honor, I have. And I should
5 indicate to the Court, that after talking to Mr. Tulali
6 and reviewing the report, we're not going to challenge
7 detention.

8 THE COURT: Okay. Thank you.

9 All right. Thank you. I will advise, sir,
10 that the Bail Reform Act of 1984 creates a rebuttable
11 presumption in certain cases that no conditions of
12 release would reasonably assure the defendant's
13 appearance and the safety of the community. And that is
14 where a judicial officer finds probable cause to believe
15 that a defendant committed an offense, for which maximum
16 term of imprisonment of ten or more years is prescribed
17 by the Controlled Substances Act.

18 Counsel, I do believe that this presumption, as
19 to detention, this is a rebuttable presumption. The
20 defense can present evidence to rebut that presumption,
21 in which case the Court would just evaluate that under
22 the normal 18 U.S.C. 3142 factors. You are entitled to
23 a detention hearing where you can present evidence. And
24 I do find that the presumption applies here.

25 The government, I assume you're requesting

1 detention, and do you believe that the presumption
2 applies?

3 MS. WEBER: Yes, Your Honor.

4 THE COURT: Okay.

5 And, Mr. Camiel, I understand the defense's
6 position today. We can either -- if you'd like, I can
7 set a detention hearing at a later time. Or what I can
8 do is, if you file a request for a bail review hearing
9 at a later date, the Court would have a hearing to
10 evaluate that proposal.

11 MR. CAMIEL: Your Honor, I would prefer the
12 latter. If we develop new information we would ask the
13 Court to at that time set a detention hearing.

14 THE COURT: Okay. Thank you.

15 Okay. Thank you. I am -- I have looked at the
16 information in the pretrial services report. I will
17 state that I noticed the very serious nature of the
18 offense here. I did know that the -- also looked at the
19 history and characteristics of the defendant, know that
20 Mr. Tulali has been employed steadily. It looks like by
21 All Day Sales for several years. But I also find that
22 there are several felony convictions of a -- looks like
23 one in 1995 and then one in 2007. And it is very
24 possible -- it seems likely here that Mr. Tulali was
25 actually on supervised release when he was -- when he

1 allegedly committed this offense in this case.

2 Regardless, I'm finding that there's a high
3 risk of danger certainly of Mr. Tulali's release, given
4 the information here and the prior offenses. With that
5 said though, the Court is -- certainly, if there is a
6 request for a bail review hearing, the Court would have
7 a hearing to evaluate that request.

8 I am therefore finding that there is probable
9 cause to believe that Mr. Tulali committed an offense
10 for which a maximum term of imprisonment of ten or more
11 years is prescribed by the Controlled Substances Act,
12 and that is due to the indictment here. And since
13 there's no evidence presented at this time to rebut the
14 presumption, I am ordering the defendant committed to
15 the custody of the United States Marshals Office pending
16 further proceedings.

17 Counsel, I think that is all. Is there
18 anything further to take up? Government?

19 MS. WEBER: Nothing further from the
20 government, Your Honor.

21 THE COURT: Okay.

22 Mr. Camiel?

23 MR. CAMIEL: No, Your Honor.

24 THE COURT: And I will just ask -- sorry, Madam
25 Clerk. Counsel, do you agree also that I did advise

1 Mr. Tulali of the enhanced statutory penalty allegation?

2 I do recall reading that term.

3 MS. WEBER: Yes.

4 THE COURT: Okay. Very well. Thank you. And
5 then I'll be ready to proceed with later hearings as
6 necessary. Thank you.

7 DEPUTY CLERK: All rise. This matter is
8 adjourned. This Court now stands in recess until 2:30
9 p.m.

10 (Whereupon, the Court adjourned at 2:18 p.m.)

11 --oo0oo--

12 CERTIFICATE

13 I, Stacy M. Baldwin, Federal Official Court Reporter
14 in and for the United States District Court of the
15 District of Alaska, do hereby certify that the foregoing
16 transcript is a true and accurate transcript from the
17 digital recording in the above-entitled matter and that
18 the transcript page format is in conformance with the
19 regulations of the Judicial Conference of the United
20 States.

21 Dated December 19, 2024.

22
23
24
25
/s/ Stacy M. Baldwin
STACY M. BALDWIN, RCR, RMR
FEDERAL OFFICIAL COURT REPORTER